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SUPREME COURT, U. S.

Volume I

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 428

SECURITIES AND EXCHANGE COMMISSION,
PETITIONER,

vs.

UNITED BENEFIT LIFE INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,382

SECURITIES AND EXCHANGE COMMISSION, APPELLANT,

v.

UNITED BENEFIT LIFE INSURANCE COMPANY, APPELLEE.

JOINT APPENDIX

VOLUME I

RELEVANT DOCKET ENTRIES

1962

Oct. 1	Complaint, appearance, exhibits A & B filed
Nov. 13	Answer of deft to complaint; c/m 11/13/62. filed

1963

Mar. 5	Interrogatories by deft to pltff; c/s 3–5–63. filed
Mar. 5	Notice by deft to take depositions of Edwin W. Patterson and others. c/s 3–5–63. filed
Mar. 22	Answers of pltf to interrogatories; c/s 3/22/63. filed
Mar. 22	Motion of pltf for an order preventing depositions from being taken and for a protective order; P&A; affidavit; c/s 3/22/63; MC 3/22/63. filed
Mar. 22	Objections of pltf to certain interrogatories; P&A; c/s 3/22/63; MC 3/22/63. filed
Apr. 16	Opposition of deft to objections to interrogatories and to pltf's motion for order sur depositions; P&A; statement; c/s 4/16/63. filed

1963 Continued

Apr. 26 Exhibit A by pltf. to objections to interrogatories 3/22/63. filed

May 28 Amended answers by pltf to deft's interrogatories; c/s 5/28/63. filed

Jun. 7 Request by pltf for admissions of genuineness of documents and the truth of matters of fact, (annexes 2); c/s 6/7/63. filed

Jun. 10 Order granting motion of plaintiff that depositions of Commissioners & of Director of Division of Corporate Regulation, & of Edwin Patterson shall not be taken; sustaining objections of plaintiffs to interrogatories; and denying motion of plaintiff for protective order. (N) Youngdahl, J.

Jun. 20 Responses of defendant to plaintiffs request for admissions; c/s 6-19-63. filed

Jul. 2 Supplemental Request of plaintiff for admission by defendant of truth of matters of fact. c/s 6-28-63. filed

Jul. 15 Responses by defendant to supplemental requests for admissions. c/ser 7-15-63. filed

Sep. 12 Motion of deft for summary judgment, P&A, statement, affidavits (2), index to documents, documents 1, 2, 3, 4, 5a, 5b, 5c, 6, 7a, 7b, 7c, 7d, 8, 9, and 10. MC 9-12-63. filed

Oct. 18 Opposition of plaintiff to motion for summary judgment, Exhibit A, B,; P&A's, Affidavit (3); Statements (2) c/ser 10-12-63. filed

Dec. 17 Memorandum denying defendant's motion for summary judgment. (N) McGarraghy, J.

1964

Jan. 16 Order denying defendant's motion for summary judgment; denying motions by plaintiff and defendant for order ascertaining material facts in controversy; denying defendant's motion to impose sanctions of Rule 56(g) if it appears plaintiff has presented affidavits in bad faith. (N) McGarraghy, J.

1964 Continued

Dec. 23	Stipulation re: interrogatories; appendix A.
Dec. 23	Motion of parties to advance & assign to single judge. filed

1965

Jan. 5	Order assigning case to Judge Edward M. Curran for Pretrial & Trial & advancing case for trial. (N) (AC/N) (signed 1–4–65) McGuire, CJ.
Feb. 19	Pretrial Statement by pltff; c/m 2–15. filed
Feb. 24	Pretrial Statement by deft. filed
Mar. 10	Trial brief of deft; appendix. filed
Mar. 10	Trial memorandum by pltff; c/m 3–10–65. filed
Mar. 15	Hearing begun; respited to March 16, 1965. (Rep. B. Williamson) Curran, J.
Mar. 16	Hearing resumed; respited to March 22, 1965. (Rep. B. Williamson) Curran, J.
Mar. 17	Motion of deft to dismiss; MC 3–17–65; c/m 3–17. filed
Mar. 19	Opposition of pltf. to motion to dismiss; exhibit; c/m 3–19–65. filed
Mar. 19	Points & authorities in support of motion to dismiss; c/s 3–19; M.C. filed
Apr. 5	Findings of Fact & Conclusions of Law and Order dismissing the complaint on the merits. (N) Curran, J.
Apr. 15	Notice of appeal by plaintiff from order of 4/5/65; copy mailed to M. Joseph Stoutenburgh. filed
Apr. 28	Motion of plaintiff for leave to perpetuate testimony; exhibit; points and authorities; c/m 4/28/65; M.C. 4/28/65. filed
May 4	Opposition of defendant to motion to perpetuate testimony; points and authorities; c/ser. 5/4/65. filed
May 6	Motion to perpetuate testimony argued and denied. (Rep. G. Russell Walker) (Order to be presented) Curran, J.

1965 Continued

May 7	Exhibits #1, 2, 3, 4, 5, 6, 7, 8a, 8b, 8c, 9, 10, 11, 13, 14, 15, 16a, 16b, 16c, 16d, 16e, 17, 18 by plaintiffs. filed
May 10	Stipulation of counsel to correct transcript of proceedings. (fiat) Curran, J.
May 18	Order denying pltf's motion for leave to perpetuate testimony. (N) Curran, J.
June 4	Transcript of proceedings 5–6–65, pp. 1–17. (reported by G. Russell Walker. Court's copy.) filed

[Filed October 1, 1962]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

C.A. 3096 — '62

SECURITIES AND EXCHANGE COMMISSION, 425 Second Street, N.W., Washington 25, D. C., PLAINTIFF,

v.

UNITED BENEFIT LIFE INSURANCE COMPANY, 1666 Connecticut Avenue, N.W., Washington, District of Columbia, DEFENDANT.

COMPLAINT FOR INJUNCTION

1. This is an action by the Securities and Exchange Commission to enjoin the offer, sale and delivery after sale of two types of securities neither of which is registered under the Securities Act of 1933, as amended: (a) certain participations in a fund of securities, called the Flexible Fund A account of the United Benefit Life Insurance Company, which are being issued by the Flexible Fund A account and distributed by the defendant, United Benefit Life Insurance Company, purportedly as insurance annuity policies, and (b) guarantees of the securities issued by Flexible Fund A account which guarantees are in themselves securities being issued and distributed by the defendant. In addition, the Commission's action seeks to enjoin the defendant from distributing or redeeming any security issued by the Flexible Fund A account, or making any portfolio investments on its behalf, until that Fund is registered as an investment company in accordance with the provisions of the Investment Company Act of 1940, as amended.

2. It appears to the plaintiff, the Securities and Exchange Commission, that the defendant, United Benefit Life Insurance Company, is engaged and is about to engage in acts and practices which constitute and will constitute viola-